

S. AMANDA MARSHALL, Oregon State Bar No. 95347

United States Attorney

**TIM SIMMONS**, Oregon State Bar No. 92461

[tim.simmons@usdoj.gov](mailto:tim.simmons@usdoj.gov)

Assistant U.S. Attorney

United States Attorney's Office

District of Oregon

405 E. 8<sup>th</sup> Ave., Suite 2400

Eugene, OR 97401

Telephone: (541) 465 -6740

Facsimile: (541) 465 -6917

Attorney for United States

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**EUGENE DIVISION**

**LAURA L. BROWN,**

**Case No.: 6:14-1292**

Plaintiff,

v.

**UNITED STATES OF AMERICA'S  
NOTICE OF REMOVAL**

**WATERFALL CLINIC,  
INCORPORATED,**

Defendant.

(Removed from Oregon State Circuit  
Court for the County of Coos, Case  
number 14CV0493)

**To: The Honorable Judges of the United States District Court for the District of Oregon**

The United States of America, by S. Amanda Marshall, United States Attorney for the District of Oregon, through Tim Simmons, Assistant United States Attorney, provides notice that the above-entitled case, commenced in the Circuit Court of the State of Oregon

for the County of Coos, Civil Case No. 14CV0493, is removed to this Court, and in support thereof state:

1. At the time of the incidents alleged in the complaint, Waterfall Clinic, Incorporated (“Waterfall Clinic”) was an entity deemed by the Department of Health and Human Services to be an employee of the Public Health Service for purposes of 42 U.S.C. § 233(a). See 42 U.S.C. § 233(g). Waterfall Clinic is named as the defendant in the case described in the previous paragraph.

2. Pursuant to 42 U.S.C. § 233(c) and 28 C.F.R. § 15.4, the United States Attorney for the District of Oregon has certified that Waterfall Clinic was acting within the course and scope of its employment at the time of the incident out of which this claim arose. See Exhibit 1.

3. Accordingly, removal of this action to federal court is proper under 42 U.S.C. § 233(c). Section 233(c) provides that upon certification by the Attorney General that the defendant was acting within the scope of its employment at the time of the incident out of which the suit arose, any civil action commenced in a state court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending. See 42 U.S.C. § 233(c). The action is thereafter “deemed a tort action brought against the United States under the provisions of Title 28 [the Federal Tort Claims Act] and all references thereto.” *Id.*

4. A copy of all process, pleadings, and orders received in this action are filed with this notice pursuant to 28 U.S.C. § 1446(a). See Exhibit 2.

WHEREFORE, this action, now pending in the Circuit Court for the State of Oregon for the County of Coos, Case No. 14CV0493, is properly removed from there to this Court as provided by 42 U.S.C. § 233(c).

Dated this 12th day of August, 2014.

Respectfully Submitted,

S. AMANDA MARSHALL  
United States Attorney  
District of Oregon

/s/ Tim Simmons

---

TIM SIMMONS  
Assistant United States Attorney  
Attorney for United States

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I made service of foregoing: **United States of America's Notice of Removal**, was placed in a postage prepaid envelope and deposited in the United States Mail according to established office procedure in the Office of the United States Attorney at Eugene, Oregon, on August 12, 2014, addressed to:

James M. Monsebroten  
Attorney at Law  
320 Central Avenue, Suite 510  
Coos Bay, OR 97420  
Attorney for Plaintiff

Lawrence F Finneran  
Lawrence Finneran LLC  
405 N 5th St  
PO Box 359  
Coos Bay OR 97420  
Attorney for Defendant

*/s/ Trudylee Fleming*

---

Trudylee Fleming  
Legal Assistant  
United States Attorney's Office